

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1947.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	September 9, 2002
DATE OF REPORT:	October 23, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	November 26, 2002

**COMPLAINT ISSUES:**

Whether the Gary Community School Corporation violated:

511 IAC 7-27-9(b) by failing to include the student in a summer school program to prepare students for the statewide test administered at the beginning of the 2002-03 school year.

511 IAC 7-27-6 by failing to include in the student's individualized education program (IEP) all of the required components, specifically, by not including two necessary pages.

511 IAC 7-27-4(a)(4) by failing to convene a case conference committee (CCC) meeting when the student came back to school full-time after receiving services in the student's home.

511 IAC 7-17-72(4) by failing to ensure the student's IEP is accessible to each of the student's teachers, related services providers and other personnel who are responsible for the implementation of the student's IEP.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically, by not providing the student with two sets of books.

511 IAC 7-27-4(c) by changing the student's placement and failing to convene a CCC meeting to determine the needs in that change of placement.

***During the course of the investigation of the above-referenced complaint, the following changes and additional issues have been identified:***

511 IAC 7-27-6 was determined not relative to the facts identified in the complaint, and shall be disregarded.

***Additional issues identified to more directly relate to the facts of the complaint:***

511 IAC 7-27-5(a) and (c) by failing to provide the Complainant with a copy of all pages of the student's IEP at the CCC meeting, or no later than 10 business days after the date of the CCC meeting; and

511 IAC 7-25-4(k) and (m) by failing to provide the Complainant with a copy of an evaluation either 5 days before, or at the CCC meeting convened to consider the student's eligibility for special education services, specifically, by not providing the Complainant with a copy of the assistive technology evaluation report and recommendations.

An extension of time until October 23, 2002, was granted on October 9, 2002, to allow the investigator sufficient time to review the information related to the issues involved.

## **FINDINGS OF FACT:**

1. The student (the Student) is 12 years of age, is enrolled in grade six, and has been determined eligible for special education and related services under the category of learning disability, with orthopedic impairment as a secondary disability.
2. The Complainant reports that she was told at the April 25, 2002, CCC meeting that she would be notified about a remediation class (the class) available for all students entering grade six, in preparation for the statewide assessment. The IEP indicates the Student is to participate in the statewide assessment. The Principal reported that the Student was not notified of the class because he was on homebound services. The Complainant asked about enrolling the Student when she saw a notice at the school while she was picking up another copy of the IEP, August 7, 2002, but was told the Student could not enroll after the initiation of the classes. All homebound services for the Student had ended July 18, 2002, before the class began on July 22, 2002.
3. The Complainant's April 25, 2002, copy of the IEP did not include the definitions for the areas of eligibility and description of each evaluation procedure and additional information, which were considered to determine eligibility for services under Learning Disability and Orthopedic Impaired. In addition, the assistive technology form was not included, as required on page CCR/IEP 5, under *Considerations of Special Factors* section of the District's IEP form. The School reported that those missing pages were transition pages intended for students 14 years of age or older and were not necessary pages for the Student. During the first week in August 2002, the Complainant went to the district special education office and received a copy of the Student's complete IEP, including the missing previously initialed pages and assessment form.
4. The current IEP developed at the April 25, 2002, CCC meeting did not contain a copy of the assessment summary for assistive technology and recommendations, which the Complainant had not received prior to the CCC meeting on April 25, 2002. The Complainant received a copy of the evaluation summary report the first week in August when she requested a copy at the district special education office.
5. The Complainant requested a CCC meeting prior to the Student returning to school from homebound services when she spoke with the district special education supervisor (the Supervisor) on August 7, 2002. The Supervisor checked the IEP to determine if a CCC meeting would be needed to address services in the classroom and reported to the parent that those services had already been addressed in the IEP and no CCC meeting was needed. The IEP initiation and duration dates are from April 25, 2002, to April 24, 2003, and services and goals are included for the school setting. The Supervisor believed the parent was asking a question about the necessity for meeting prior to the Student's return to school, rather than requesting a CCC meeting. The Complainant did not complete a form to request a CCC meeting.
6. The Complainant provided a copy of the Doctor's permission slip to return to school on the first day of school, August 28, 2002, but was called by the school nurse (the Nurse) to report that the Student could not attend school because he did not have a release from the doctor and a copy of the IEP was not available. The Complainant provided a copy of the IEP on the second day of school and additional copies of IEP pages of accommodations and services on the third day of school at the School's request. The teacher of record (TOR) had not made the IEP available to the Student's teachers and had not informed each teacher and provider of the specific responsibilities, or supplemental aids and services required to

implementing the Student's IEP. The School reports that the IEP was not available because the Student's folder containing the current IEP had not been filed yet, and the Director concurred.

7. The Student's IEP, dated April 25, 2002, requires a second set of books because of an orthopedic restriction. The School acknowledges that they did not make a second set of books available to the Student at the beginning of the school year. Some, but not all books, were made available on September 6 and 9 for home use.
8. Upon his return to school on August 28, 2002, the School placed the Student in all general education classes. The current IEP, dated April 25, 2002, requires the Student to attend LD classes for all but math, art, music, and gym classes. The Complainant went to school on the third day and made copies of the services, accommodations, and modifications included in the IEP, and the School placed the Student in the required classes for special education services. The Director acknowledges that the School did not have access to the IEP on the first day of school and did not know the Student was eligible for special education.

## CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did not make available to the Student a summer school program to prepare for the statewide tests administered at the beginning of the fall 2002 school year to all incoming 6<sup>th</sup> grade students. The Student is to be included in these assessments, according to the IEP. Therefore a violation of 511 IAC 7-27-9(b) is found.
2. Finding of Fact #3 indicates that the School failed to provide the Complainant with a complete copy of the IEP within 10 days of the CCC meeting, including a description of each evaluation procedure, test, record, or report used as a basis for the determination of special education services under learning disability and orthopedic impairment. Therefore, a violation of 511 IAC 7-27-5(a) and (c) is found.
3. Finding of Fact #4 indicates that the School failed to provide a copy of the assistive technology evaluation report to the Complainant at the April 25, 2002, CCC meeting. Therefore, a violation of 7-25-4(k) and (m) is found.
4. Finding of Fact #5 indicates that the IEP did provide for *anticipated services* needed after the Student returned to school, and the Complainant did not make clear her request to meet to review the IEP. Therefore, no violation of 511 IAC 7-27-4(a)(4) is found.
5. Findings of Fact #6 and #7 indicate that the TOR failed to make the Student's IEP available to the school staff or to inform the Student's teachers of the supplemental aids and services required under the IEP upon the Student's return to school. Therefore, a violation of 511 IAC 7-17-72(4) is found.
6. Finding of Fact #7 indicates that the School failed to implement the Student's IEP, as written, specifically, by not providing a second set of textbooks, as well as sending multiple books home with the Student when restrictions on carrying heavy items is included in the IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found.
7. Finding of Fact #8 indicates that the school did not change the Student's placement from special education services for learning disabilities in the resource room without a CCC review of the Student's IEP. Rather, the School failed to implement the Student's IEP (Finding of Fact #7) by providing special education services at the beginning of the 2002 to 2003 school year, and the TOR failed to make the Student's IEP available to the School to inform the Student's teachers of the supplemental aids and special education

services required under the IEP (Findings of Fact #6 and #7). Therefore, no violation of 511 IAC 7-27-4(c) is found.

**The Department of Education, Division of Exceptional Learners requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Gary Community School Corporation shall:

1. Reconvene the CCC to review and revise, as needed, the Student's IEP, including the following areas:
  - a. The Student's present levels of educational performance, goals, and objectives; specify what the Student's placement will be in the least restrictive environment; and ensure the Student's schedule matches the placement;
  - b. Accommodations and modifications, specifically, to ensure a second set of textbooks is provided and assistive technology is specified and implemented;
  - c. To determine whether and to what extent compensatory services are required as a result of the Student not being included in the state assessment preparation class.

A copy of the IEP/CCC report that clearly summarizes the discussion and conclusions of this issue in the appropriate sections of the IEP/CCC report and a copy of the Student's class schedule shall be sent to the Division of Exceptional Learners no later than November 15, 2002.

2. Provide an assurance statement ensuring that the student's records and IEP are accessible at the school building, and that the TOR has informed all staff who provide services to the Student of the requirements necessary to implement the Student's IEP. A copy of the assurance statement shall be sent to the Parent and the Division no later than November 15, 2002.
3. Send a written memorandum to all administrators and special education personnel informing them of the requirement to provide the parent(s) with a complete copy of the IEP within 10 days of the CCC meeting, and to provide the Complainant with a copy of an evaluation either 5 days before the scheduled CCC meeting or at the CCC meeting convened to consider the student's eligibility for special education services.

A copy of the memorandum and the signatures of all personnel who received it shall be sent to the Division of Exceptional Learners no later than November 15, 2002.